

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

| | | |
|-----------------------------|---|--------------------------------------|
| DIAMOND X RANCH, LLC., |) | Case No. 3:13-cv-00570-MMD-WGC |
| |) | |
| Plaintiff/Counterclaim |) | <u>MINUTES OF PROCEEDINGS</u> |
| Defendant, |) | |
| vs. |) | |
| |) | October 25, 2017 |
| ATLANTIC RICHFIELD COMPANY, |) | |
| |) | |
| Defendant/Counterclaimant/ |) | |
| Third-Party Plaintiff, |) | |
| vs. |) | |
| |) | |
| PARK LIVESTOCK, CO., |) | |
| |) | |
| Third-Party Defendant. |) | |
| _____ |) | |

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: FTR

COUNSEL FOR PLAINTIFF: Aaron Allan (telephonically), Fred Heather, Brad Johnston, and
Noah Perch-Ahern (present)

COUNSEL FOR DEFENDANT: Adam Cohen and Jonathan Rauchway (telephonically),
Robert Dotson and Mead Dickson (present)

MINUTES OF PROCEEDINGS: Motions Hearing

8:33 a.m. Court convenes.

The court holds today's conference to address Atlantic Richfield Company's Motion for Extension of Time to File Joint Pretrial Order (First Request) (ECF No. 303) and Diamond X Ranch LLC and Park Livestock Co.'s Emergency Motion and/or Request to Compel Atlantic Richfield Company to (1) Cooperate as Necessary to Prepare the Joint Pretrial Order; or Alternatively, (2) to Hold a Pretrial Conference (ECF No. 304).

///

The court first discusses with counsel the upcoming November 30th settlement conference the parties have scheduled with Magistrate Judge McQuaid. The court suggests the parties consider exchanging the non-confidential portions of their settlement statements with each other. The court states the exchange of such information, in the court's experience, results in a more productive settlement conference.

Mr. Rauchway explains that the parties discussed the suggestion of the their exchanging simultaneous reports identifying their respective settlement positions; however, after consulting with his client, Atlantic Richfield declined to do so.

Mr. Rauchway further states Diamond X has not provided Atlantic Richfield with a current demand. Mr. Heather confirms Diamond X has not provided a more recent demand but that a demand was made prior to the complaint being filed and Atlantic Richfield never responded or countered Diamond X's demand.

The court reminds counsel that Judge McQuaid requires a representative of the opposing party to have final settlement authority up to the amount of the last demand. Without a current demand from Diamond X, it makes it difficult for Atlantic Richfield to comply with this requirement. Therefore, the court highly encourages the parties to exchange their respective settlement demands.

The court next discusses the suggestion made by counsel in an email attached to Diamond X's motion (ECF No. 304-1, Exhibit A) addressing the exchange of supplemental expert reports. The court anticipates this information will be helpful to have before the upcoming settlement conference; therefore, the court imposes the deadline of **Wednesday, 11/15/2017**, for the simultaneous exchange of the additional or supplemental expert reports.

The court next discusses Atlantic Richfield's request to extend the deadline to file the proposed joint pretrial order (JPTO) which according to Judge Du's Order referring this case for a settlement conference requires the JPTO to be lodged 30 days after the settlement conference. (ECF No. 301). The court finds an extension for 60 days is unnecessary; however, in view of the intervening holidays between the time of the settlement conference and the current deadline, the court is amenable to a 30 day extension. Therefore, Atlantic Richfield's motion to extend time to file the proposed joint pretrial order (ECF No. 303) is **GRANTED in part** and **DENIED in part**. The proposed JPTO is due no later than **Wednesday, 1/31/2018**.

The court next addresses specific deadlines identified in an email exchange between counsel regarding Diamond X's request for exchange of certain information required for the preparation of the JPTO (see ECF No. 304-1, Exhibit A). Even though the court has extended the deadline for filing the JPTO, the court deems it would be productive for the parties to still

exchange information regarding certain aspects of the JPTO before the November 30 settlement conference. The court requires the parties to exchange information as follows: (1) Diamond X shall provide a statement of contested and uncontested issues of fact and law and a proposed witness list no later than **Friday, 11/10/2017**; (2) Atlantic Richfield shall respond to Diamond X statement of contested and uncontested issues of fact and law and provide a draft witness list no later than **Wednesday, 11/22/2017**.

The court takes a brief recess to contact Judge McQuaid to discuss the possibility of extending the deadline for the parties to lodge their settlement conference statements. After consulting with Judge McQuaid, the deadline to submit the settlement conference statements to Judge McQuaid is extended to **4:00 p.m., on Monday, 11/27/2017**.

In view of the deadlines imposed above, Diamond X's motion (ECF No. 304) is **GRANTED in part** and **DENIED in part**.

The court and counsel next discuss the deadline in which the parties are to submit three (3) prospective trial dates and an estimation of how many days total to complete a jury trial in this case as is required by ¶¶ VIII and IX of LR 16-4. Mr. Heather requests the court preserve the deadline for the end of December 2017 for counsel to identify trial dates, as would be required if the JPTO were still due 30 days after the November 30 settlement conferences. Mr. Rauchway submits that the end of January 2018 is sufficient time to identify dates for trial.

After consideration, IT IS ORDERED that the parties shall submit a separate notice with the court no later than **Friday, 12/29/2017**, identifying 3 prospective trial dates agreed on between the parties and an estimated total number of days to complete the jury trial in this case. The parties are reminded, however, that ¶ VIII of LR 16-4 states that if possible, the court will set trial on one of the agreed-upon trial dates, but that if the court is unable to accommodate counsels' suggested trial dates that the trial will be set at the convenience of the court's calendar.

There being no additional matters to address at this time, court adjourns at 9:30 a.m.

DEBRA K. KEMPI, CLERK OF COURT

By: /s/
Katie Lynn Ogden, Deputy Clerk